

STATE OF INDIANA } FILED IN - IN THE LAKE COUNTY \_\_\_\_\_ COURT.  
CLERK'S OFFICE  
COUNTY OF LAKE ) CAUSE NO. **45D100610PL00132**  
**2006 OCT 24 AM 11 49**

STATE OF INDIANA, THOMAS R. PHILPOT )  
CLERK LAKE SUPERIOR COURT )  
Plaintiff, )  
v. )  
SUSAN DIANE PERIGO, doing business )  
as, Picture This Photography, )  
Defendant. )

**COMPLAINT FOR INJUNCTION,  
RESTITUTION, COSTS, AND CIVIL PENALTIES**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Mary Ann Wehmueller, petitions the Court pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code §24-5-0.5-1 *et seq.*, for injunctive relief, consumer restitution, investigative costs, civil penalties, and other relief.

**PARTIES**

1. The Plaintiff, State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code §24-5-0.5-4(c).
2. At all times relevant to this complaint, Defendant, Susan Diane Perigo, d/b/a Picture This Photography ("Perigo"), was an individual who engaged in the business of providing photography services. Perigo's principal place of business is located at 240 Washington Street, Unit B, Lowell, Indiana.

CERTIFIED MAIL/  
POST MARKED **OCT 13 2006**

## **FACTS**

3. Since at least October of 2004, Perigo has entered into wedding photography contracts with consumers in which Perigo promised to provide photography services, which included the delivery of photographs and wedding albums to consumers.

4. On or around October 16, 2004, Melody J. Rozdelsky ("Rozdelsky") placed her wedding photograph order with Perigo.

5. Rozdelsky paid Perigo in full a total of \$1,149.99.

6. Perigo, expressly or by implication, represented that she would deliver the photographs and albums to Rozdelsky within a reasonable time frame.

7. Perigo has failed to deliver the photographs and albums to Rodzdelsky and has failed to refund her monies.

8. On January 11, 2005, Robert W. Stanford ("Stanford") placed his wedding photograph order with Perigo.

9. Stanford paid Perigo in full a total of \$1,127.09.

10. Perigo, expressly or by implication, represented that she would deliver the photographs and albums to Stanford within a reasonable time frame.

11. Perigo has failed to deliver the photographs and albums to Stanford and has failed to refund his monies.

12. On or around May 28, 2005, Angela M. Nagy-Jacobson ("Nagy-Jacobson") placed her wedding photograph order with Perigo.

13. Nagy-Jacobson paid Perigo in full a total of \$368.35.

14. Perigo, expressly or by implication, represented that she would deliver the photographs to Nagy-Jacobson within a reasonable time frame.

15. Perigo has failed to deliver the photographs and albums to Nagy-Jacobson and has failed to refund her monies.

16. On or around June 6, 2005, Sandra Koza ("Koza") placed her wedding photograph order with Perigo.

17. Koza paid Perigo in full a total of \$1,050.00.

18. Perigo, expressly or by implication, represented that she would deliver the photographs and albums to Koza within a reasonable time frame.

19. Perigo has failed to deliver the photographs and albums to Koza and has failed to refund her monies.

20. On November 20, 2004, Leslie Mancilla, ("Mancilla") placed her wedding photograph order with Perigo.

21. Mancilla paid Perigo in full a total of \$1,049.00.

22. Perigo, expressly or by implication, represented that she would deliver the photographs and albums to Mancilla within a reasonable time frame.

23. Perigo has failed to deliver the photographs and albums to Mancilla and has failed to refund her monies.

24. On December 29, 2004, Stacey Orzel ("Orzel") placed an order for wedding photographs with Perigo.

25. Orzel paid Perigo in full a total of \$936.29.

26. Perigo, expressly or by implication, represented that she would deliver the photographs and albums to Orzel within a reasonable time frame.

27. Perigo has failed to deliver the photographs and albums to Orzel and has failed to refund her monies.

28. On November 14, 2004, Kelly Mills ("Mills") placed an order for wedding photographs with Perigo.

29. Mills paid Perigo in full a total of \$1,068.99.

30. Perigo, expressly or by implication, represented that she would deliver the photographs and albums to Mills within a reasonable time frame.

31. On January 9, 2005, Mills viewed proofs of the photographs, the majority of which were either over-exposed or under-exposed.

32. Perigo admitted to the defective photographs and promised to have the proofs "fixed" and delivered to Mills within a reasonable time frame.

33. Perigo has failed to deliver the photographs and albums to Mills and has failed to refund her monies.

34. On February 16, 2006, Shelly Biesboer ("Biesboer") placed an order for wedding photographs with Perigo.

35. Biesboer paid Perigo a total of \$656.14.

36. Perigo, expressly or by implication, represented that she would complete and deliver the order to Biesboer within a reasonable time frame.

37. Perigo has failed to deliver the completed photograph order to Biesboer.

38. On October 5, 2005, Perigo gave Biesboer a partial refund of \$300.00. Perigo made the refund with Picture This Photography check number 1777. Check number 1777 was returned for insufficient funds. To date, Perigo has failed to refund any monies to Biesboer.

39. On January 2, 2005, Vicki Gardernhire Frazee ("Frazee") hired Perigo to photograph Frazee's wedding.

40. Frazee paid Perigo in full a total of \$1,149.99.
41. Perigo, expressly or by implication, represented that she would deliver Frazee's wedding photographs and albums within a reasonable time frame.
42. Perigo provided Frazee with proofs of the photographs; however many of the photographs were either over-exposed or under-exposed.
43. Perigo admitted to the defective photographs and promised to have the proofs "fixed" and delivered to Frazee within a reasonable time frame.
44. Perigo did provide Frazee with her negatives and proofs but to date has not provided Frazee with the corrected photographs or wedding albums.

**COUNT I - VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT**

45. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 44 above.
46. The transactions referred to in paragraphs 4, 8, 12, 16, 20, 24, 28, 34 and 39 are "consumer transactions" as defined by Ind. Code § 24-5-0.5-2(a)(1).
47. Perigo is a "supplier" as defined by Ind. Code § 24-5-0.5-2(a)(3).
48. Perigo's representations in paragraphs 6, 10, 14, 18, 22, 26, 30, 32, 36, 41 and 43, that consumers would receive ordered photographs or services when she knew or should have known she could not provide the photographs or services, violate Ind. Code § 24-5-0.5-3(a)(1), and Ind. Code § 24-5-0.5-3(a)(11).
49. Perigo's representations in paragraphs 6, 10, 14, 18, 22, 26, 30, 32, 36, 41 and 43, that she would deliver photographs or services within a stated or reasonable time

frame, when she knew or should have known she could not provide the photographs or services within the stated time, violate Ind. Code § 24-5-0.5-3(a)(10).

**COUNT II – KNOWING AND INTENTIONAL VIOLATIONS OF  
THE DECEPTIVE CONSUMER SALES ACT**

50. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 49 above.

51. The misrepresentations and deceptive acts set forth in paragraphs 6, 10, 14, 18, 22, 26, 30, 32, 36, 41 and 43 above were committed by Perigo with knowledge and intent to deceive.

**RELIEF**

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against Defendant, Susan Diane Perigo, individually and doing business as Picture This Photography, enjoining Perigo from the following:

A. representing, expressly or by implication, that consumers will receive photographs or services upon receipt of payment, when the Defendant knows or should reasonably know she cannot or will not provide the photographs or services, and

B. representing that the Defendant will deliver photographs or services within a stated or reasonable time frame, when the Defendant knows or should reasonably know she cannot or will not provide the photographs or services as represented.

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendant for the following relief:

a. cancellation of consumer contracts, pursuant to Ind. Code §24-5-0.5-4(d);

b. consumer restitution pursuant to Ind. Code §24-5-0.5-4(c)(2), for reimbursement of all deposits, down payments, and other funds remitted by consumers for the purchase of wedding pictures and photography services including, but not limited to, the persons identified in paragraphs 4, 8, 12, 16, 20, 24, 28, 34 and 39;

c. costs pursuant to Ind. Code §24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;

d. civil penalties pursuant to Ind. Code §24-5-0.5-4(g) for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of \$500.00 per violation, payable to the State of Indiana;

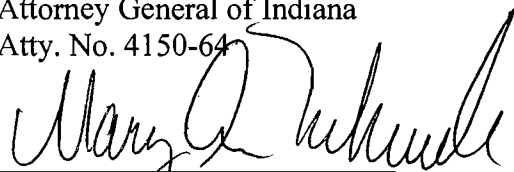
e. civil penalties pursuant to Ind. Code §24-5-0.5-8 for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of \$500.00 per violation, payable to the State of Indiana; and

f. All other just and proper relief.

Respectfully submitted,

STEVE CARTER  
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